

United States District Court

New Mexico

Civil Document No: 1:23-CV-00120-SCY

Plaintiff: Kenneth Pitts “PRO SE”

V.

Defendant: San Juan College

**PLAINTIFF INDIVIDUAL RESPONSE TO ORDER FOR JOINT STATUS REPORT AS
OF 11/25/2024**

This case arises due to former employee and PTA Program Director, Therese Millis, and the Defendant, San Juan College, committing "tortious acts" including Racial Discrimination and Retaliation which have harmed the Plaintiff, an African-American Male, educationally and financially as he resides in the state of Massachusetts.

The former PTA Program Director, Therese Millis knowingly committed an intentional act of racial discrimination as she permitted multiple non-minority students who reside in the state of California from the same “Online/Hybrid” cohort to complete their rotations with their employer, San Luis Sports Therapy, while denying my requests to do the same with “previous and/or potential” employers, citing my requests to be “a violation of policy” (See 2nd Opp.,D,E,F)

The San Juan College “Online/Hybrid” PTA Program allows students from various parts of the U.S. to earn a PTA degree from the comfort of their home. In the online/hybrid Physical Therapist Assistant program students complete only five semesters, as most of your coursework will be online. You are required to travel to the San Juan College campus for approximately 7-18 consecutive days (including

weekends and/or holidays) for labs during each semester, and then return to the city / state in which you reside.

Of the approximate 17 online/hybrid students in my cohort, roughly 5 resided in the state of New Mexico, and none of the students were residents of Farmington, NM during our enrollment in the San Juan College Online/Hybrid PTA Program. The goal of the online/hybrid education program is to earn a degree conveniently from home (distance learning). At no point did I consider moving out of Massachusetts

District Court Judge Angel Kelley has transferred this case to the District of New Mexico, Albuquerque Division pursuant to Fed. R. Civ. P. 12(b)(2) for lack of jurisdiction over the College based on grounds that should be rejected. (See 2nd Opp, Ex.A) I have appealed the decision and request further review pursuant The Massachusetts Long-Arm Statute, M.G.L. c. 223A, §3 (c), with the intent to have my case heard in Massachusetts, as damages to the Plaintiff have occurred only in the state of Massachusetts, not in New Mexico. (See 2nd Opposition, Ex.B)

Most importantly, New Mexico Court documents show that Luke Salganek is privy to evidence which confirms my allegations of racial discrimination, as he served as Counsel for the Defendant San Juan College, against Dr. Therese Millis, after her employment termination on or about June 9, 2020 and prior to the expiration of her 2019 - 2020 contract. (See 2nd Opp.,Ex.C)

In addition to this, retaliatory acts on the part of San Juan College and the PTA Program ensued after the filing of my racial discrimination complaint with the College, and against Millis. Not only did Millis' discriminatory acts beginning in Spring of 2019 hinder my ability to acquire gainful employment during the PTA Program, it has also

impacted my progress toward graduating from the San Juan College PTA Program, taking the national exam and thereafter securing gainful employment initially in early 2019 and has continued since June of 2020. (See 2nd Opp.,Ex.G)

Counsel for the Defendant (Luke Salganek) is well-aware of the act of Racial Discrimination committed by former San Juan College PTA Program Director, Therese Millis. Salganek, served or is currently serving as Counsel for San Juan College against the Plaintiff, Therese Mills, as she took legal action against San Juan College for a “for cause” employment termination after the filing of my racial discrimination complaint on June 9, 2020. (See 2nd Opp.,Ex.C,H)

CURRENT STATUS

The Pro Se Plaintiff, Kenneth Pitts, does respectfully submit his Individual Status Report pursuant to the Court’s November 14, 2024 Order, as Attorney Luke Salganek had not answered until today 11/25/2024. After speaking with Attorney Salganek via phone this morning, I am sending him a copy of this Individual Status Report with every intention to be a part of the Joint Status Report that has been Ordered and due by December 5, 2024. My apologies if I am incorrect, but my limited understanding of the legal process leads me to believe that Judge Yarbrough may mean for the parties to Confer and seek a resolution with the Ordering of this report as well as to provide a status update. With that in mind I have sought and will continue to seek to confer with the Defendant if that is in fact what Judge Yarbrough is seeking.

1. Prior to the 11/14/2024 Judge Ordered Joint Status Report, I contacted Attorney Salganek via email on July 26, 2024 with a “Resolution Request” as there has been no movement from the First Circuit Court of Appeals.

Attorney Salganek later responded: "My clients have reviewed your request and they do not accept the terms you've outlined. If you have any other suggestions I will convey those to my clients, but they do not have a counteroffer" on 8/9/2024. (See Status Report Ex.A)

2. Since the November 14, 2024 Order, Attorney Salganek had failed to contact me or respond to my requests to confer to discuss such as, but limited to: The nature of the case; Discovery and pending motions; A realistic plaintiff demand; A realistic defendant offer; The specific aspects of the case that are inhibiting settlement; The realistic likelihood that any negotiations will occur, as I believe these topics to be proper in this situation. (See Status Report Ex.B)
3. As of November 20, 2024, I have notified and submitted a copy of the Judge's Order for Status Update on my Appeal to the First Circuit for their review and response. I have been informed that the First Circuit cannot provide any information regarding my appeal at this time. (See Status Report Ex.C)

PLAINTIFF'S STATEMENT

The Plaintiff respectfully requests the assistance of this honorable Court in persuading the Defendant to comply with the Order for Status Report by conferring as may be proper in this situation. As recognized by this court, proceedings in this case have been Stayed for over 19 months. With each passing day, the Plaintiff misses out on numerous gainful employment opportunities. This has been the case for far too long and this honorable court can assist with bringing this ordeal to a realistic close. For this reason, the Plaintiff again requests the assistance of this Court to persuade the

Defendant to comply with the Plaintiff to fulfill the Order for Status Report in joint fashion to make a good-faith attempt at resolving this case. (See Status Report Ex.A)

Respectfully submitted,



/s/ Kenneth A. Pitts

Kenneth A. Pitts

Dated: November 25, 2024

CERTIFICATE OF SERVICE

I, Kenneth A. Pitts, the Plaintiff, hereby certify that I have served a copy of the foregoing INDIVIDUAL STATUS REPORT, via email to: minich@litchfieldcavo.com and lsalganek@mstlaw.com, on:

Bethany P. Minich BBO #648163
Litchfield Cavo LLP
6 Kimball Lane, Suite 200
Lynnfield, MA 01940
(781) 309-1500
minich@litchfieldcavo.com

Luke A. Salganek
Miller Stratvert, P.A.
200 West DeVargas Suite 9
Santa Fe, NM 87501
(505) 989-9614
lsalganek@mstlaw.com

Dated: November 25, 2024

/s/ Kenneth A. Pitts

Kenneth A. Pitts



Status Report

Exhibit A



Kenneth Pitts <pittsk80@gmail.com>

Resolution Request

6 messages

Kenneth Pitts <pittsk80@gmail.com>

Fri, Jul 26, 2024 at 12:44 PM

To: "Luke A. Salganek" <lsalganek@mstlaw.com>

Hello Mr. Salganek,
I hope this email finds you well. I'm contacting you regarding a request for resolution in case 1:22-cv-11062-AK. Does your client (San Juan College) wish to negotiate a resolution?

Respectfully,
Kenneth Pitts
614.940.9232

Luke A. Salganek <lsalganek@mstlaw.com>

Mon, Jul 29, 2024 at 11:00 AM

To: Kenneth Pitts <pittsk80@gmail.com>

Hi Mr. Pitts,

I'm happy to discuss this with my clients. Before I do, is there a specific offer you wanted to make?

Luke A. Salganek

Miller Stratvert P.A.

P.O. Box 1986

Santa Fe, N.M. 87504-1986

(505) 995-6405 (Direct)

(505) 989-9614 (Main)

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[Quoted text hidden]

Kenneth Pitts <pittsk80@gmail.com>

Mon, Jul 29, 2024 at 1:12 PM

To: "Luke A. Salganek" <lsalganek@mstlaw.com>

Hi Mr. Salganek,

Thanks for your response. Specifically, I'm offering: acceptance of previous work experiences (NFL, NHL, D1 Universities, PT Clinics, etc.) for PTA degree completion, \$1.1M, DEI or other consultant employment with the College. Feel free to contact me with any questions. I look forward to hearing from you.

Enjoy your day,

Kenneth Pitts

614.940.9232

[Quoted text hidden]

Luke A. Salganek <lsalganek@mstlaw.com>

Tue, Jul 30, 2024 at 12:25 PM

To: Kenneth Pitts <pittsk80@gmail.com>

Thank you, Mr. Pitts.

I'll pass this along.

[Quoted text hidden]

Kenneth Pitts <pittsk80@gmail.com>

Wed, Aug 7, 2024 at 11:33 AM

To: "Luke A. Salganek" <lsalganek@mstlaw.com>

Hello Mr. Salganek,

I hope you're having a wonderful week. Have you received a response from San Juan College regarding my resolution requests? Let me know if you have any questions.

Respectfully,

Kenneth Pitts

614.940.9232

[Quoted text hidden]

Luke A. Salganek <lsalganek@mstlaw.com>

Fri, Aug 9, 2024 at 5:15 PM

To: Kenneth Pitts <pittsk80@gmail.com>

Mr. Pitts,

I apologize for the delay. It can take a little time to get all the right people together.

My clients have reviewed your request and they do not accept the terms you've outlined. If you have any other suggestions I will convey those to my clients, but they do not have a counteroffer.

Thank you and have a good weekend.

[Quoted text hidden]

Status Report

Exhibit B



Kenneth Pitts <pittsk80@gmail.com>

USDC NM Status Update Court Order

1 message

Kenneth Pitts <pittsk80@gmail.com>

Wed, Nov 20, 2024 at 11:45 AM

To: "Luke A. Salganek" <lsalganek@mstlaw.com>, "Minich, Bethany" <minich@litchfieldcavo.com>

Attorneys Slaganek and Minich,

I hope this email finds you well. I have recently received notice of the Order For Status Report filed by Judge Yarborough on 11/14/2024

I believe you and I are to confer regarding this Order. When might you have the time to discuss this matter? Feel free to call or text to the number below to schedule a time to talk.

Respectfully,
Kenneth Pitts
614.940.9232



Kenneth Pitts <pittsk80@gmail.com>

USDC NM Filing

3 messages

Kenneth Pitts <pittsk80@gmail.com>

Wed, Nov 20, 2024 at 9:56 AM

To: "Luke A. Salganek" <lsalganek@mstlaw.com>

Good morning Mr. Slaganek,

I hope this email finds you well. I have recently received notice of the Order For Status Report filed by Judge Yarborough on 11/14/2024

I believe you and I are to confer regarding this Order. When might you have the time to discuss this matter? Feel free to call or text to the number below to schedule a time to talk.

Respectfully,
Kenneth Pitts
614.940.9232

Luke A. Salganek <lsalganek@mstlaw.com>

Mon, Nov 25, 2024 at 12:39 PM

To: Kenneth Pitts <pittsk80@gmail.com>

Cc: "Melissa V. Martinez" <MMartinez@mstlaw.com>

Mr. Pitts,

Thank you for the phone call this morning.

I'll send you a draft status report by Monday, December 2, 2024. You can review it and insert your own section if you wish, then return it to me by December 5, 2024 at noon (MT), and I'll timely file it with the court.

Luke A. Salganek

Miller Stratvert P.A.

P.O. Box 1986

Santa Fe, N.M. 87504-1986

(505) 995-6405 (Direct)

(505) 989-9614 (Main)

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Kenneth Pitts <pittsk80@gmail.com>
Draft To: "Luke A. Salganek" <lsalganek@mstlaw.com>

Mon, Nov 25, 2024 at 4:26 PM

Mr. Salganek,

I hope the rest of your day has gone well. As promised, I am sending you a copy of the INDIVIDUAL STATUS REPORT that was prepared prior to speaking with you this morning, as I had not heard from you. As stated during our phone conversation, I'm submitting this today, but do have every intention to participate in the JOINT STATUS REPORT and ask that you review and add to this INDIVIDUAL REPORT as you wish.

Feel free to contact me with any questions. I look forward to reviewing your additions to this report.

Respectfully,
Kenneth Pitts

614.940.9232

[Quoted text hidden]

Status Report

Exhibit C

If you view the Full Docket you will be charged for 1 Pages \$0.10

General Docket
United States Court of Appeals for the First Circuit

Court of Appeals Docket #: 23-1169		Docketed: 02/23/2023
Nature of Suit: 4448 Civil Rights		
Pitts v. San Juan College		
Appeal From: District of Massachusetts, Boston		
Fee Status: filing fee paid		
Case Type Information:		
1) civil		
2) private		
3) civil rights		
Originating Court Information:		
District: 0101-1 : <u>1:22-cv-11062-AK</u>		
Court Reporter: Linda Walsh		
Ordering Judge: Angel Kelley, U.S. District Judge		
Date Filed: 07/01/2022		
Date Order/Judgment: 02/09/2023	Date Order/Judgment EOD: 02/09/2023	Date Rec'd COA: 02/17/2023
		Lead: <u>1:22-cv-11062-AK</u>

PACER Service Center			
Transaction Receipt			
11/25/2024 14:44:25			
PACER Login:	KAPitts74	Client Code:	7064561
Description:	Case Summary	Search Criteria:	23-1169
Billable Pages:	1	Cost:	0.10

02/23/2023	<div><div></div><div>CIVIL CASE docketed. Notice of appeal (doc. #33) filed by Appellant Kenneth Pitts. Transcript Report/Order form due 03/09/2023. [23-1169] (GB) [Entered: 02/23/2023 10:51 AM]</div></div>
02/24/2023	<div><div></div><div>PLEADING tendered: Transcript/Report Order Form filed by Appellant Kenneth Pitts. Certificate of service was not included. [23-1169] (GB) [Entered: 02/24/2023 03:47 PM]</div></div>
02/24/2023	<div><div></div><div>TRANSCRIPT report/order form filed by Appellant Kenneth Pitts indicating the following transcript is being ordered: 02/02/2023, Motion Hearing. Transcript due 04/25/2023 from Court Reporter Linda Walsh. [23-1169] (GB) [Entered: 02/28/2023 10:55 AM]</div></div>
02/28/2023	<div><div></div><div>NOTICE of filing the following transcript in district court by Court Reporter Linda Walsh: 02/02/2023, Motion Hearing. In accordance with Judicial Conference Policy, the transcript will not be available to the public by remote electronic access for ninety days after the filing date. During that ninety day period, the transcript may be purchased through the court reporter or viewed at the public terminal at the district court. [23-1169] (GB) [Entered: 02/28/2023 10:57 AM]</div></div>
03/03/2023	<div><div></div><div>ORDER to Show Cause entered directing appellant to show cause why this appeal should not be dismissed for lack of jurisdiction. Appellant is ordered either to move for voluntary dismissal of the appeal pursuant to Fed. R. App. P. 42(b), or to show cause, in writing, why the appeal should not be dismissed for lack of jurisdiction. The failure to take action by March 17, 2023 will lead to dismissal of the appeal for lack of diligent prosecution. [23-1169] (GB) [Entered: 03/03/2023 10:11 AM]</div></div>
03/20/2023	<div><div></div><div>MOTION for a show cause hearing and RESPONSE to the court's show cause order entered on March 3, 2023 [6552832-2] filed by Appellant Kenneth Allen Pitts. Served on 03/17/2023. [23-1169] (GB) [Entered: 03/20/2023 03:34 PM]</div></div>
12/11/2023	<div><div></div><div>MOTION for appointment of counsel filed by Appellant Kenneth Allen Pitts. Served on 12/11/2023. [23-1169] (KAP) [Entered: 12/11/2023 09:25 PM]</div></div>
11/20/2024	<div><div></div><div>COURTESY COPY of an order for status report issued by the United States District Court for the District of New Mexico filed by Appellant Kenneth Allen Pitts. Certificate of service was not included. [23-1169] (GB) [Entered: 11/20/2024 01:49 PM]</div></div>